

State of South Dakota

NINETY-FIRST SESSION LEGISLATIVE ASSEMBLY, 2016

578X0077

HOUSE BILL NO. _____

Introduced by: _____

1 FOR AN ACT ENTITLED, An Act to revise certain provisions relating to the veterans'
2 preference in employment.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 3-3-1 be amended to read as follows:

5 3-3-1. In all public departments and subdivisions and upon all public works of this state and
6 of the counties, municipalities, and school districts of this state, any veteran, as defined in
7 § 33A-2-1, who is a citizen of the United States, shall receive preference for appointment,
8 employment, and promotion. Age, loss of limb, or other physical impairment which does not
9 in fact incapacitate does not disqualify the veteran if the veteran possesses the qualifications and
10 business capacity necessary to discharge the duties of the position involved. A veteran who has
11 a service-connected disability shall be given a preference over a nondisabled veteran. In order
12 to determine if the veterans' preference applies, each applicant for employment under this
13 chapter shall be asked if the applicant has served in the military.

14 Section 2. That § 3-3-2 be amended to read as follows:

15 3-3-2. If a veteran as defined in § 33A-2-1 applies for appointment for employment under
16 this chapter, the officer, board, or person whose duty it is to appoint or employ some person to



1 fill the position shall, ~~before appointing or employing anyone to fill the position,~~ investigate the
2 qualifications of the applicant. If the applicant possesses at least the minimum qualifications
3 necessary to fill the position, the officer, board, or person shall interview the applicant. If the
4 applicant is ~~of good moral character and can perform the duties of the position, the officer,~~
5 ~~board, or person shall appoint the applicant to the position~~ the most qualified applicant for the
6 position, the officer, board, or person shall appoint the applicant to the position.

7 Section 3. That chapter 3-3 be amended by adding thereto a NEW SECTION to read as
8 follows:

9 Beginning on July 1, 2016, the Department of Labor and Regulation shall, at least once
10 every two years, provide each public employer to whom this chapter applies with written notice
11 of the current state laws pertaining to the veterans' preference in employment.

12 Section 4. That chapter 3-3 be amended by adding thereto a NEW SECTION to read as
13 follows:

14 Any applicant entitled to the preference in employment under this chapter who claims not
15 to have received the preference may file a complaint with the secretary of the Department of
16 Labor and Regulation. The complaint shall identify the public employer with whom the
17 applicant applied and include a description of the actions taken or omitted by the public
18 employer that led to the filing of the complaint. Within five days after the filing of the
19 complaint, a copy shall be served upon the public employer or by registered or certified mail to
20 the public employer's address. The public employer shall, within thirty days after the service of
21 the complaint, file with the secretary a written answer to the charges specified. The secretary
22 shall conduct the hearing in accordance with the requirements of chapter 1-26. The secretary
23 may promulgate rules, pursuant to chapter 1-26, to further define the standards and procedures
24 for conducting hearings and for filing, investigating, and resolving complaints.

1 Section 5. That chapter 3-3 be amended by adding thereto a NEW SECTION to read as
2 follows:

3 Any hearing conducted pursuant to section 4 of this Act shall be public, and the applicant
4 may appear in person or by counsel and produce evidence at the hearing. Any witness shall be
5 sworn before testifying, and the secretary may administer the oath prescribed by law for
6 witnesses in judicial proceedings. A record, in writing, shall be made of the proceedings and of
7 all evidence produced, and the record shall be made available to the public by the Department
8 of Labor and Regulation at the conclusion of the hearing. The hearing shall be held in Pierre
9 unless good cause is shown to justify moving the hearing to another location for the convenience
10 of the parties and witnesses.